

PUBLIC WORKS CONTRACT ARBITRATION COMMITTEE MINUTES

June 9, 2003

The meeting was called to order at 10:40 a.m. by Co-chairperson Tim McGowan, representing the construction industry. Other voting members present were Cecil Mark and David McCosker, representing the construction industry; Kenn Kojima, representing the Department of General Services, (DGS); William McDonald, representing the Department of Water Resources; and Robert Pieplow, representing the Department of Transportation (Caltrans). Non-voting member Melissa Meith, Director of the Office of Administrative Hearings (OAH), was present. Others present included Stephen Cameron, Caltrans; Michael Doughton, Department of Corrections; Margaret Farrow, OAH; Carol Rader, DGS; and Phoenix Vigil, OAH.

I. MINUTES OF THE DECEMBER 9, 2002 MEETING

The draft minutes of the December 9, 2002 meeting were adopted without change.

II. ADMINISTRATOR'S REPORT

The administrator reported on the status of the increase in filing fees. The committee expressed concerns about the possibility of another increase in filing fees, as the last filing fee increase did not appear to cover the program's deficit. The administrator pointed out that there has not been an increase in filing fees since inception of the program. The committee asked for a comparison of other arbitration programs' filing fees.

The administrator advised the committee that the regulation revisions are in process and awaiting fiscal and department-head approval. When the departments sign off on the regulations, the regulations will then go to the Office of Administrative Law for approval.

The administrator provided copies of a recent appellate court decision in *Brutoco Engineering & Construction, Inc., v. The Superior Court of the County of San Bernardino* wherein the appellate court ruled that a superior court can not appoint an arbitrator who is not on the certified list of arbitrators.

The appellate court also provided, in a footnote, an interpretation of section 10240.3 specifically whether the parties should be able to disqualify a court nominee or appointee. The court saw little point in having the parties act to disqualify an arbitrator after they have already been through a series of attempts to select an arbitrator. The current arbitration selection process does allow the parties to object to the appointment of an arbitrator selected by the superior court. The administrator suggested a regulation revision to clarify whether the parties could or could not object to the appointment of an arbitrator after selection by the superior court. The committee decided not to act upon the matter.

III. REVIEW OF ARBITRATOR APPLICATIONS

No new arbitrators were certified to the arbitrator panel. Thomas Cooper and Paul Dauer were recertified to the arbitrator panel. Richard Chess was not recertified to the arbitrator panel.

The committee made a few minor clarifying changes to the application.

IV. NEW BUSINESS/PUBLIC COMMENT

No new business was presented.

V. SCHEDULING OF NEXT MEETING

The next meeting is scheduled for Monday, September 15, 2003 at 10:00 a.m.